

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6082 HOUSE RULES

486

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Original sponsors: Fahrenkamp, Sturgulewski,
Eliason, et al.

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 8 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Women's Commission;
7 extending the termination date of the Interim Women's
8 Commission; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 44.19.167(a) is amended to read:

11 (a) The members shall be appointed on a nonpartisan and nondis-
12 criminatory basis by the governor [WITHIN 60 DAYS OF OCTOBER 6, 1978].
13 The members shall be residents of the state. At least one member
14 shall be a person who manages a household that includes the person's
15 spouse and at least one child and [HOMEMAKER] who is not otherwise
16 employed. In making the appointments, the governor shall give due
17 consideration [SHALL BE GIVEN] to

18 (1) the recommendations made by civic organizations, wom-
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20 groups, labor unions, church groups, homemakers' clubs and organiza-
21 tions, and other groups having an interest in the welfare [STATUS] of
22 women;

23 (2) statewide geographical representation of the commis-
24 sion; [AND]

25 (3) minority and low-income representation;

26 (4) representation of senior citizens, persons with dis-
27 abilities, and persons from a variety of occupational categories; and

28 (5) representation of persons with different marital sta-
29 tuses and persons with various numbers of children.

1 * Sec. 2. AS 44.19.167 is amended by adding a new subsection to read:

2 (c) No more than three seats on the commission may be held by
3 persons who served on the commission before July 1, 1989. Except for
4 the representative of the attorney general's office who serves ex
5 officio, the governor may not appoint to the commission a person who
6 is

- 7 (1) a state employee;
 - 8 (2) an employee of a legislator; or
 - 9 (3) the parent, sibling, spouse, or child of the governor
- 10 or of a legislator.

11 * Sec. 3. AS 44.19.168 is amended to read:

12 Sec. 44.19.168. MEETINGS. [WITHIN 60 DAYS AFTER THE APPOINTMENT
13 OF ALL THE MEMBERS OF THE COMMISSION, THE GOVERNOR SHALL CALL THE
14 FIRST MEETING OF THE COMMISSION.] A majority of the members consti-
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16 the commission. The commission shall meet at the call of the chair-
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18 scheduled time as determined by a majority of the members.

19 * Sec. 4. AS 44.19.169 is amended to read:

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1 THE STATUS OF WOMEN IN ALASKA WHICH WAS MANDATED BY THE NINTH LEGISLA-
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3 of women in the state [ALASKA] by conducting [FURTHER] research, by
4 erving as a referral service for information and education that will
5 help women avail themselves of existing resources to meet their needs,
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7 opportunities, needs, problems, and contributions of women in the
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19 respect to possible approaches for meeting women's needs in the state.

20 * Sec. 7. AS 44.66.010(a)(12) is amended to read:

21 (12) Alaska Women's Commission -- June 30, 1993 [1987];

22 * Sec. 8. EXTENSION OF INTERIM COMMISSION. The termination date of the
23 Interim Women's Commission established by the governor under Administrative
24 Order No. 110 is extended to June 30, 1989.

25 * Sec. 9. TRANSITIONAL PROVISIONS. (a) The members of the Alaska
26 Women's Commission appointed by the governor to serve terms of office
27 beginning on July 1, 1989, shall serve initial terms under AS 39.05.055(7),
28 as determined by the governor.

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1 continuation of the Interim Women's Commission except as otherwise specif-
2 ically addressed by this Act.

3 * Sec. 10. Section 8 of this Act is retroactive to the date of adjourn-
4 ment of the First Regular Session of the Sixteenth Alaska State Legisla-
5 ture.

6 * Sec. 11. Sections 8 and 10 of this Act take effect immediately under
7 AS 01.10.070(c).

8 * Sec. 12. Except for secs. 8 and 10 of this Act, this Act takes effect
9 July 1, 1989.

Original sponsors: Fahrenkamp, Sturgulewski,
Eliason, et al.

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15 parties whose candidate for governor received the highest number of
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FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Establishing the Alaska Women's Commission.
 Sponsor: Senator Fahrenkamp
 Requestor: House Finance

Agency Affected: Office of the Governor
 BRU: Commissions/Special Offices
 Components: Alaska Women's Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The proposed funding for the Women's Commission is included in the Office of the Governor's FY 90 budget request. See attached budget detail.

Prepared by: House Finance Committee Phone: 465-3727
 Division: Co-Chairman Ron Larson *Ronald J. Larson* Date: 2/7/89
Co-Chairman Lyman Hoffman
 Approved by Commissioner: *Lyman Hoffman* Date: _____
 Agency: _____

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

07-01-20-07-00 (0-01-91510-0005)

STATE OF ALASKA -- COMPONENT BUDGET SUMMARY

SALSFRMA 09:37 1/05/89

AGENCY: OFFICE OF THE GOVERNOR
CATEGORY: ADMINISTRATION OF JUSTICEPROGRAM: COMMISSION/SPECIAL OFFICES
SUB-PROGRAM: ALASKA WOMENS COMMISSION

LEG. FIN.

EXPENDITURES & FUNDING	FISCAL YEAR 1990												
	(01) FY89 ACT	(02) FY89 CC	(03) COL 03	(24) FY89 ATH	(25) FY90BASE	(26) FY90ADJ B	(27) FY90 ADY	(28) FY90 GOV	(09) HOUSE	(10) SENATE	(11) C. C.	(12) BILLS	(13) LEG. REC.
01 PERS. SERV.	153.8	163.4		163.4	168.2	163.2	163.2	163.2					
02 TRAVEL	14.7	29.2		29.2	29.2	28.7	28.7	28.7					
03 CONTRACTUAL	21.6	69.7		69.7	69.7	37.7	73.7	73.7					
04 COMMODITIES	2.5	3.5		3.5	3.5	3.5	3.5	3.5					
05 EQUIPMENT	12.6												
06 LANDS/BLDOS													
07 GRANTS, CLMS													
08 MISC.		-37.5		-37.5	-37.5								
MM TOTAL EXPEND	205.2	228.3		228.3	233.1	233.1	249.1	249.1					
09 I-A TRANSFER		2.0		2.0	2.0	2.0	2.0	2.0					
1004 GEN FUND	195.6	217.1		217.1	221.9	221.9	221.9	221.9					
1005 GF/PRGM							36.0	36.0					
1007 I/A RCPTS	9.6	11.2		11.2	11.2	11.2	11.2	11.2					
15 FULL TIME	3.0	3.0		3.0	3.0	3.0	3.0	3.0					
16 PART TIME													
17 TEMPORARY	1.0	1.0		1.0	1.0	1.0	1.0	1.0					
18 STAFF MONTHS	32.0	32.0		32.0	32.0	32.0	32.0	32.0					

HCS CSSB 8 (FIN)
HOUSE 2/23/89

No. 1

STATE OF ALASKA

HUMAN RIGHTS COMMISSION

STEVE COWPER, GOVERNOR

HEADQUARTERS
800 A STREET, SUITE 202
ANCHORAGE, ALASKA 99501-3628
PHONE: (907) 278-7474

March 6, 1989

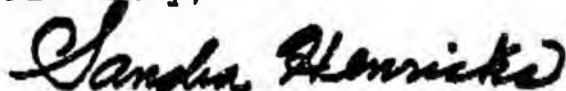
The Honorable Ben Grussendorf
Alaska State Legislature
Chairman
House Rules Committee
P.O. Box A
Juneau, AK 99811

Dear Representative Grussendorf:

The Alaska State Commission for Human Rights met by teleconference on February 28, 1989. At our meeting we discussed several pieces of legislation, including House CS for Senate Bill No. 8 (Finance). The Commission unanimously supports the continuation of the Alaska Women's Commission. However, the Commission finds that Section 1 of this bill, requiring that one member shall be "a person who manages a household that includes the person's spouse and at least one child", violates the concept of human rights law as we know it in our state. The legislature found in enactment of Alaska's Human Rights Law that discrimination against Alaskans because of race, religion, color, national origin, age, sex, physical or mental disability, marital status, changes in marital status, pregnancy or parenthood is a matter of public concern and that this discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety and general welfare of the state and its inhabitants.

We urge you to consider the Commission's concern in your review of this bill.

Sincerely,



Sandra A. Henricks
Chairperson

SAH:PMH/b 54/1989a

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 6, 1989

FURTHER REFERRALS:

Date of Committee Action: 3-7-89

The RULES Committee considered:

CSSB 8(FIN) am

CS FOR SENATE BILL NO. 8 (Finance) am

[ALASKA WOMEN'S COMMISSION]

"An Act relating to the Alaska Women's Commission; extending the termination date of the Interim Women's Commission; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with HCS CSSB 8 (Rules) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis 2-23-89 H. Finance

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Ben Sweeney

Jan Cost

Cliff Dinsden

Deborah Jewley

	Do Not Pass	No Rec	Amend
<i>Robin L. Taylor</i>	<input checked="" type="checkbox"/>		
<i>Terry Martin</i>			

Ben Sweeney
 Chairman's signature

3/21/89

SB 10

**(Public
Education
Funding)**

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 16, 1989

FURTHER REFERRALS:

Date of Committee Action: 3/21/89

The RULES Committee considered:

CSSB 10(Fin) am

CS FOR SENATE BILL NO. 10 (Finance) am

[DEADLINES FOR FUNDING EDUCATION]

"An Act relating to deadlines for action on funding of public education; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] have attached amendment(s) [] a new title
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
[X] zero fiscal note(s) 3-3-89 Educ.
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Ben Sawyer
Terry Mastor
Chip Darden
David Douley
Robin L. Taylor
Bette Cox
Sam Galt

	Do Not Pass	No Rec	Amend

Ben Sawyer
Chairman's signature



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: Representative Ben Grussendorf
Chairman House Rules Committee

From: Senator Jack Coghill

Re: CS for SB 10(Fin)am

Date: March 15, 1989

A handwritten signature in cursive script, appearing to read "Jack Coghill", written over the "From" and "Re" lines of the memorandum.

Over the past few years, I have been advocating the need for the State of Alaska to stabilize our educational system. With the fluctuation in oil prices, school districts around the state do not know how much state revenue they will receive before they formulate their budget for the following school year. Early notification of the amount of state revenues school districts will receive would assist the districts and municipalities in planning and budget preparation.

CS for SB 10(Fin)am sets a deadline of April 7th by which the Legislature shall appropriate funds to school districts for the following school year. CS for SB 10(Fin)am also establishes a date of April 30th by which a borough school board shall submit the school budget for the following school year to the borough assembly.

I believe passage by the Legislature of CS for SB 10(Fin)am will help alleviate many of the budget related problems school districts have been facing for many years. It will also show state residents that the Legislature considers education a top funding priority.

I would greatly appreciate if you would schedule CS for SB 10 (Fin)am for House floor action as soon as possible. Please let me know if you have any questions.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Deadlines For Action on Funding
of Public Education
 Sponsor: Senate Finance
 Requestor: Senate Finance

Agency Affected: Education
 BRU: K-12 Support
 Components: Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 3/2/89
 Approved by Commissioner: William G. Demmert Date: 3/2/89
 Agency: Education

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

SECTIONAL ANALYSIS FOR CS for SB 10(Fin)am

"An Act relating to the deadlines for action on funding of public education; and providing for an effective date."

Section 1 - Adds language which would set a deadline of April 7 by which the Legislature shall appropriate funds to school districts for the next fiscal year.

Section 2 - Changes the date from April 1 to April 30 for the borough school boards to submit the following school year's budget to the borough assembly.

Section 3 - Adds language which would set a deadline of April 7 to appropriate funds for direct and indirect services and other funding for the next fiscal year into the public school foundation account.

Section 4 - Includes as a responsibility of the Legislature, the appropriation of money for public school construction debt retirement, public school foundation program, pupil transportation, student lunch program, cigarette tax distribution, tuition students, boarding home grants, youth in detention, schools in detention and for the handicapped no later than April 7 of each year for the succeeding fiscal year.

DEADLINES FOR FUNDING PUBLIC EDUCATION

	<u>Current Law</u>	<u>CSSB10(Fin)am</u>	<u>CSHB4(Fin)</u>
Legislature appropriates funds		April 7	April 7
Borough School Board submit budget for following year to assembly (AS 14.14.060(c))	April 1	April 30	April 30
Borough Assembly 30 days to furnish school board with statement of sum of local appropriation (AS14.14.060(c))	May 1	May 30	May 30
must appropriate local source	May 31	May 31	May 31
determine rate of levy before	June 15	June 15	June 15
mail tax statements AS 29.45.240(b)	July 1	July 1	July 1

3/21/89

**HCR 10
(Uniform
Rules:
Committee
Records)**

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 23, 1989

FURTHER REFERRALS:

Date of Committee Action: 3/2/89

The RULES Committee considered:

HCR 10

HOUSE CONCURRENT RESOLUTION NO. 10

[UNIFORM RULES: COMMITTEE RECORDS]

Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to committee records; and providing for an effective date.

RECOMMENDATIONS:

- be replaced with CS HCR 10 (Rules) the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) 2-23-89 LAH
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Ben Sumner
Larry Madsen
Steve Cook
Arvin Taylor
David Dooly
John AT
Cliff Davidson

	Do Not Pass	No Rec	Amend

Ben Sumner
 Chairman's signature



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

MEMORANDUM

TO: House Rules Committee Members

FROM: Rep. Ben Grussendorf, Chairman
House Rules Committee

DATE: March 20, 1989

SUBJECT: PROPOSED CS HCR 10(RULES)

The proposed changes to CS HCR 10(JUD) are marked beginning on Page 2, line 10 of the attached proposed CS HCR 10(RULES).

On line 10 of both versions, the wording has been changed to reflect that these records are all kept with the committee until "the end of the second session of each legislature." (The Judiciary version incorrectly stated that these files were sent to the library at the end of each session or each legislature.)

There have been considerable problems in the past with the content and order of the committee files sent to the library for disposition at the end of each legislature. The proposed Rules CS provides a precise breakdown of the these materials.

Alaska State Legislature

House of Representatives House Judiciary Committee

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

M E M O R A N D U M

TO: Representative Ben Grussendorf, Chair
House Rules Committee

FROM: Representatives Peter Goll and Max Gruenberg
Co-Chairmen, House Judiciary Committee

RE: CSHCR 10 (Jud), proposing an amendment to the
Uniform Rules of the Alaska State Legislature
relating to committee records.

DATE: February 22, 1989

We are transmitting CSHCR 10 (Jud), which amends Uniform Rule 23 (f), relating to committee records.

The resolution was supported by the Alaska Court System, the Department of Law, the State Archivist, and the Legislative Reference Librarian, and received a unanimous "do pass" in House Judiciary. This testimony in support of the bill can be found in the February 20, 1989, committee minutes. (Number 418)

The resolution clarifies the requirement that committee minutes be made available upon request to anyone. Not just to committee members and the public.

It also requires that each committee make available to the Legislative Affairs Agency a copy of all committee minutes for entry into the legislative computer system, changing the "may" to "shall."

Finally, it specifies which materials go to the reference library at the end of session.

The Court System supported the list of specific items saying they were needed by the Administrative Office to

provide history of legislation and to perform research on various topics.

The Department of law endorsed this effort to improve retention of and access to legislative records, noting that improved availability of the material providing background for or foundation of Alaska law, will make their legislative research easier and the advice to state agencies better.

The Legislative Reference Librarian said that the legislation helps clarify which bill files must be sent to the library and what those files should contain. This is an important step in establishing a comprehensive legislative records management system, she said.

Finally, the State Archivist stated that the resolution was an important step toward ensuring that the permanently valuable records of the legislature are preserved and accessible. Since Legislative intent is so important in this state, legislative records are vital for legal and research purposes. They are one of the two most heavily used records groups in the archives.

Your assistance in bringing this bill to the floor is appreciated.

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 1, 1989

FURTHER REFERRALS: RULES

Date of Committee Action: _____

The JUDICIARY Committee recommends that:

HOUSE CONCURRENT RESOLUTION NO. 10

[UNIFORM RULES: COMMITTEE RECORDS]

Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to committee records; and providing for an effective date.

[] be replaced with CS HCR 10 (JUDICIARY) [] the same title
[] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact
- [] zero fiscal note LAA
- [] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published: _____
- [] zero fiscal notes(s) published: _____

SIGNING DO PASS:

Peter Jare
Serry Marten
Cey Davidson
Mike Davis
Al Ellis
Mike Miller

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Peter Jare
 CO- Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Proposing an amendment to the
Uniform Rules of the Alaska State Legislature...
 Sponsor: House Judiciary
 Requestor: House Judiciary

Affect Agency Legislative Affairs Agency
 BRU: Legislative Council
 Components Legal Services

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
----------------	---	---	---	---	---	---

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

No fiscal impact

Prepared By: Pamela Stoops, Director
 Division: Administrative Services

Pamela Stoops

Phone: 465-3850
 Date: 2/23/89

Approved By: Warren Endicott, Executive Director
 Agency: Legislative Affairs Agency

Warren Endicott

Date: 2/23/89

DISTRIBUTION (BY PREPARER)
 LEGISLATIVE FINANCE
 LEGISLATIVE SPONSOR

REQUESTOR
 OFFICE OF MANAGEMENT & BUDGET
 AGENCY (IES)

Alaska State Legislature



House of Representatives House Judiciary Committee

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

MEMORANDUM

TO: Representative Ben Grussendorf, Chair
House Rules Committee

FROM: Hayden Kaden, Counsel *HK*
House Judiciary Committee

RE: HCR 10, amending Uniform Rules relating to
committee records.

DATE: February 27, 1989

A small problem in HCR 10 (Jud) was pointed out to me that I think the Rules Committee may want to take care of. Presently paragraph (5) on page 2 reads:

"(5) at the end of each session or each legislature, deliver to the legislative reference library a file for each bill considered by the committee that includes committee minutes, tapes, written testimony..... etc."

That language implies that the file should include the minutes and tapes. The way these files are actually handled is that the minutes and tapes are kept separately and a sheet of paper is put in the file referring one to the appropriate dates of hearings on the bills so that the minutes can be looked up in the minutes file. Thus, the better language for (5) should be:

(5) "at the end of each session or each legislature, deliver to the legislative reference library committee minutes, tapes, and a file for each bill considered by the committee that includes written testimony....etc."

If you have any questions, please contact me at 465-4990.



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

MEMORANDUM

March 16, 1989

To: Hayden Kaden, Counsel
House Judiciary Committee

From: Jeannie Smith, Leg. Assistant
House Rules Committee

Subject: PROPOSED CS HCR 10(RULES), amending Uniform Rules
relating to committee records.

We have scheduled CS HCR 10(JUD) for a hearing on Tuesday, March 21st at 8:00 a.m. The hearing will be in the Speaker's Chambers.

Attached is a copy of the Proposed CS HCR 10(Rules). I have marked the changes made to CS HCR 10(JUD).

In reference to the Judiciary version, Page 2, Lines 10 through 15 are now broken down in the Proposed Rules CS, on Page 2, Lines 10 through 20.

On line 10 of both versions, I have changed the wording to reflect that these records are all kept with the committee until "the end of the second session of each legislature." In speaking with the drafter(Tam Cook), she indicated that she thought the files were sent over at the end of each session when she drafted the legislation.

I have also more precisely listed the records which are delivered to the Legislative Reference Library to eliminate confusion and provide an actual "picture" of what occurs with these records at the end.



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

MEMORANDUM

TO: House Rules Committee Members

FROM: Rep. Ben Grussendorf, Chairman
House Rules Committee

DATE: March 20, 1989

SUBJECT: PROPOSED CS HCR 10(RULES)

The proposed changes to CS HCR 10(JUD) are marked beginning on Page 2, line 10 of the attached proposed CS HCR 10(RULES).

On line 10 of both versions, the wording has been changed to reflect that these records are all kept with the committee until "the end of the second session of each legislature." (The Judiciary version incorrectly stated that these files were sent to the library at the end of each session or each legislature.)

There have been considerable problems in the past with the content and order of the committee files sent to the library for disposition at the end of each legislature. The proposed Rules CS provides a precise breakdown of the these materials.

Original sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE CONCURRENT RESOLUTION NO. 10 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Uniform
6 Rules of the Alaska State Legislature
7 relating to committee records; and
8 providing for an effective date.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. Rule 23(f) of the Uniform Rules of the Alaska State Legis-
11 lature is amended to read:

12 (f) Each standing, special, and joint committee shall

13 (1) [SHALL] record its meetings electronically and prepare
14 a log of the recording adequate to locate specific testimony;

15 (2) [SHALL] prepare minutes of each meeting of the commit-
16 tee on a standard form prescribed jointly by the Rules Committees of
17 the house and the senate; the minutes shall include

18 (A) a list of the names of each member present during
19 the meeting;

20 (B) a list of the name and affiliation of each witness
21 testifying before the committee;

22 (C) a brief statement of the position of the witness
23 on the subject testified upon; and

24 (D) each amendment formally considered by the commit-
25 tee, the name of the member moving adoption of the amendment, the
26 action taken on the amendment, and the yeas and nays if a commit-
27 tee member has requested a roll call vote on adoption of an
28 amendment;

29 (3) [SHALL] maintain a chronological file of minutes,

1 copies of which shall be made available upon request [TO COMMITTEE
2 MEMBERS AND THE PUBLIC; COMMITTEE MINUTES, TAPES AND OTHER MATERIALS
3 OF RESEARCH VALUE SHALL BE DELIVERED BY THE COMMITTEE AT THE END OF
4 EACH SESSION OR EACH LEGISLATURE TO THE LEGISLATIVE REFERENCE LIBRARY
5 FOR APPROPRIATE DISPOSITION];

6 (4) [MAY] make available to the Legislative Affairs Agency
7 a copy of all minutes of committee meetings during the session for
8 entry of the minutes as a data base on the legislative computer sys-
9 tem;

ADD:

10 (5) at the end of the second session of each legislature,
11 deliver to the legislative reference library

12 (A) a binder that contains an index and copies of all
13 minutes filed by date;

14 (B) tapes of committee meetings and logs for those
15 tapes prepared under (1) of this subsection; and

16 (C) a file for each bill or subject considered by the
17 committee that includes written testimony submitted to the
18 committee, state agency position papers and memoranda, bill
19 drafts considered by the committee, letters of intent adopted by
20 the committee, and other materials of research value.

21 * Sec. 2. The amendment proposed by this resolution takes effect on the
22 convening of the Second Session of the Sixteenth Alaska State Legislature.

23 [DELETE:]

10 (5) at the end of each session or each legislature, deliver
11 to the legislative reference library for appropriate disposition
12 committee minutes, tapes, written testimony if submitted for inclusion
13 in the record, state agency position papers and memoranda, bill
14 drafts, letters of intent, and other materials of research value.

15 * Sec. 2. The amendments proposed by this resolution take effect on the
16 convening of the Second Session of the Sixteenth Alaska State Legislature.



Representative Ben Grussendorf, Chair House Rules Committee

DATE: March 21, 1989

PLACE: H-Speakers

SUBJECT OF MEETING:
HCR 10 Uniform Rules Re
Comm. H.R. Records
CSSBIO(FIN)AM: Early Funding for
Education

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
SHELLY GROWDEN	SEN. COGHILL	P.O. Box V, JUNEAU	99811		465-4997	<input checked="" type="radio"/>	<input type="radio"/>	CSSBIO(FIN)AM
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	

3/29/89

HB 25

**(Irradiated
Food)**



Representative Ben Grussendorf, Chair House Rules Committee

SUBJECT OF MEETING:
HB 25; IRRADIATED FOOD

DATE: MARCH 29, 1989

PLACE: SPEAKER'S CHAMBR
CAP. 209

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
						Y	N	
Douglas Doregan	DEC	P.O. Box 0 Juneau 99811			465-2628	Y	N	HB-25 Available for questions
TERRY BANNISTER	LEGAL SVCE	P.O. Box 1, JUNEAU 99811			465-3867	Y	N	11
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 28, 1989

FURTHER REFERRALS:

Date of Committee Action: 3/29/89

The RULES Committee considered:

HB 25

HOUSE BILL NO. 25

"An Act relating to irradiated food."

RECOMMENDATIONS:

- be replaced with CS HB 25 (Rules) the same title
 a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note H. Finance
- zero with analysis _____
- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis HSS 1/25/89

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

Sam R. Cost
Robin L. Taylor

	Do Not Pass	No Rec	Amend
<u>Don Cowley</u>		X	
<u>Cliff Davidson</u>		X	
<u>Jan Smalley</u>		X	

Jan Smalley
Chairman's Signature



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

HOUSE RULES COMMITTEE MEETING
WEDNESDAY, MARCH 29, 1989
8:30 A.M.

AGENDA: CSHB 25(FINANCE) - "An Act prohibiting under the Alaska Food, Drug, and Cosmetic Act the knowing sale of irradiated food and the causing of the knowing sale of irradiated food; and making the commissioner of environmental conservation responsible for enforcing the prohibitions."

SPONSOR: REP. PHILLIPS

I N D E X

- I. MEMO DATED MARCH 23, 1989 TO REP. GRUSSENDORF -
RE:HB 25 FROM REP. PHILLIPS & INFORMATION PACKET
NOTE: PROPOSED CSHB 25(RULES) HAS AN ANALYSIS ATTACHED
RE: CHANGES MADE TO THE HOUSE FINANCE VERSION.
- II. CSHB 25(FINANCE)
- III. FISCAL NOTE FOR CSHB 25(FINANCE) WHICH APPLIES TO
PROPOSED CSHB 25(RULES)

I



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

REPRESENTATIVE RANDY PHILLIPS
HOUSE DISTRICT 15
(907) 465-4949

P.O. Box V
State Capitol
Juneau, Alaska 99811

Memorandum

TO: House Rules Committee
FROM: Representative Randy Phillips *R.P.*
DATE: March 23, 1989
RE: House Bill 25
An Act relating to irradiated food

House Bill 25 would prohibit the sale of irradiated foods within the State of Alaska. I have requested that the Rules Committee adopt a committee substitute. The changes between the House Finance Committee substitute and the proposed Rules Committee Substitute are discussed in my memorandum to Representative Ben Grussendorf, a copy of which is included in this packet as Attachment 1.

The sectional analyses attached speak to House Bill 388 from the 1988 session or to House Bill 25 from this session. Legislative Counsel Bannister has advised me that these memoranda apply to the committee substitute I have requested you to adopt. This bill excludes irradiated spices from being considered as irradiated foods. Additionally advice from Ms. Bannister with regard to House Bill 388 indicated that while this bill does not prohibit the manufacturing of irradiated food, A.S. 17.20.340 indicates that such manufacturing would also be prohibited (See Attachment 2). There were also some questions last year about the state's right to limit "interstate commerce" and I have attached another memorandum from Ms. Bannister concerning this question (see Attachment 3). The House Judiciary Committee last year also asked a question about the affect of the federal supremacy clause and a memorandum from Legal Services on that is attached as Attachment 3A.

During the 1988 legislative session, the House passed House Bill 388 dealing with irradiated foods but the bill did not pass the Senate. The provisions contained in House Bill 25 would be added to the Alaska Food, Drug, and Cosmetic Act and this would mean that certain enforcement provisions included in that act would follow with the adoption of the language in this bill. Criminal penalties would be those set out in A.S. 17.20.310 (see Attachment 4) and injunctive relief would be as provided in A.S. 17.20.280 (see Attachment 5). The proposed committee substitute bill does include provisions for embargo and detention of these items.

While the Food and Drug Administration was requested to participate in discussion on this bill during consideration last year, it declined for the reasons outlined in Attachment 6.

To the best of my knowledge at this date, only one state, Maine, has adopted a ban on the sale of irradiated foods. In talking with the Maine Department of Agriculture, Rural Resources, in Augusta, Maine, in November of this year, I was advised that enforcement of Maine's ban on irradiated foods has not been a problem. The Department has not received any complaints from consumers nor have food suppliers complained to the Department regarding any specific problem with the bill.

Other states have considered legislation concerning a food irradiation ban. Vermont has enacted strict labeling requirements for any irradiated food. Legislation has also been considered on the federal level. It is my understanding that Congressman Bosco and Senator Mitchell will be reintroducing before the United States Congress legislation similar to that proposed by them during the last congressional session.

Food irradiation is being considered as a possible food preservation method. In Alaska, one of the main foods areas being considered is seafood. The actual process involves the use of cobalt-60 (an isotope that must be manufactured in nuclear reactors from nonradioactive cobalt-59), cesium-137 (a water soluble byproduct of both nuclear weapons productions and nuclear power generation) or electron beam machine. Attachment 7 describes the process and Attachment 8 gives a brief history of food irradiation.

In 1958, Congress classified food irradiation as a food additive. This meant that before the process could be used, it had to be approved by the FDA under the Federal Food, Drug, and Cosmetic Act. While the FDA has approved food irradiation for certain different uses [control of insects in wheat (1963), inhibit sprouts in potatoes (1964), control of trichinosis in pork (1985), slow growth and ripening and control pests in produce and to kill insects and microorganisms in herbs and spices (1986)] the only use in the United States at the present time is in some spices and herbs. I have attached a list of spices and herbs that are being irradiated at the present time (see Attachment 9).

Attachment 10 describes some problems the irradiation industry has experienced and Attachment 11 lists (as of January 1987) the location of irradiator facilities in the United States.

The Institute of Northern Engineering of the University of Alaska at Fairbanks ("Institute") has published an optional analysis study that supports the building of demonstration facilities for food irradiation in Alaska. The Institute's report recommends use of an electron beam machine as the source for the irradiation process. While this machine may not have some of the problems brought about by use of cobalt-60 or cesium-137, the process remains the same and the effect on the foods being irradiated remains the same. While the Institute and others indicate the food irradiation process does not adversely impact food,

testimony before House committees last year indicated many scientists and health care professionals and consumers maintain that we do not have enough information about the changes in food made by the process to adequately insure the health safety of Alaskans.

The greatest concerns I have with the food irradiation process are as follows:

1. Safety of the process and effect on humans ingesting irradiated foods.

2. Questions about the wholesomeness of irradiated foods.

3. Risks to the environment for the irradiator plants. There is danger both to the workers in an irradiation plant as well as residents of the surrounding area. I have attached a list of incidents that have occurred at some of the forty irradiation plants that currently operate within the United States (see Attachment 10). Attachment 11 shows the location of these facilities.

4. Possible creation during the process of mutant and/or radiation resistant bacteria and the effect of the elimination of nonresistant bacteria making it easier for the mutant bacteria to survive.

5. Possible creation during the process of potent carcinogens called aflatoxins.

6. Possible elimination of the organisms that produce signals and odors that alert people to food spoilage while the bacteria that causes food poisoning may be more resistant to radiation and, therefore, still present.

7. Radioactive food may occur if the process is not handled properly.

8. Transportation of radioactive materials. If Alaska were to have such a facility as suggested by the Institute's report, radioactive materials would have to be brought in from somewhere. Even with the use of the electron beam machine, it is feared by many that eventually such a plant would have to turn to cobalt-60 or cesium-137 and these items would have to be transported in from out of Alaska.

9. Safety questions exist concerning proper storage of radioactive material.

10. Economic impact of irradiating Alaskan seafood. As stated in the Institute's report, Japan is a substantial trading partner with Alaska. Japan currently does not allow the importation of irradiated foods. From what I have read, Japanese consumers are strongly opposed to this process and it is unlikely that Japan will drop its ban in the near future.

You might also be interested to know that at present irradiated foods not approved by the FDA do get on our grocery shelves. Attached is some pertinent information regarding some Rice-A-Roni/Noodle-Roni that contained illegal irradiated ingredients. (See Attachment 12.)

Attachment 13 is a 1987 paper on food irradiation. This paper was prepared by Food and Water, Inc.

Attachment 14 is a copy of an article by Dr. Richard Piccioni (who visited Alaska last winter and gave lectures on food irradiation in Fairbanks and Anchorage) entitled "Food Irradiation: Contaminating our Food".

Attachment 15 is a copy of a press release from Governor Steve Cowper's Office, dated February 7, 1989, and entitled "Cowper Says State to Decline Food Irradiation Facility."

Attachment 16 is a copy of the 1989 resolution from United Fishermen of Alaska concerning that organization's position on the food irradiation process.

Attachment 17 is a copy of my January 17, 1989, memorandum to the House Health, Education and Social Services Committee regarding the federal labelling requirements for irradiated foods.

For your further information, I have also attached a list of articles that I have available on this subject (Attachment 18).

I would appreciate your support of this legislation and would request that the House Rules Committee adopt the proposed committee substitute referenced above.

Attachments

INDEX TO ATTACHMENTS - HOUSE BILL 25 - Irradiated Foods

<u>Attachment</u>	<u>Description</u>
1	Memorandum explaining changes in proposed Rules Committee Substitute. Sectional Analysis of proposed substitute
2	Scope of Irradiated Food Bill (from Legislative Counsel Bannister)
3	HB 388 and the Commerce Clause (from Legislative Counsel Bannister)
3A	Federal Preemption and CSHB 388 (HESS) (from Legislative Counsel Bannister)
4	A.S. 17.20.310 (Penalties)
5	A.S. 17.20.280 (Injunction Proceedings)
6	Food and Drug Administration Testimony Advice
7	"Irradiating Food Growing Preservation Method" (<u>American Medical News</u> , January 24/31 1986)
8	"History of Food Irradiation" (<u>Atomic Industrial Forum, Inc.</u> , "Background Info" April 1987)
9	"FDA's List of Foods Authorized for Irradiation" (NCSFI Newsletter)
10	"A Short History of Trouble/Irradiation Hall of Shame" (Food Irradiation Response Newsletter, August/September 1986)
11	"List of the 40 Irradiation Facilities in the U.S." (NCSFI <u>Information Manual</u>)
12	Information regarding the use of illegal irradiated ingredients
13	"Food Irradiation: A Summary" (Food and Water, Inc. September 15, 1987)
14	"Food Irradiation: Contaminating our Food" By

Attachment

Description

- Richard Piccioni
(The Ecologist, Volume 18, No. 2, 1988)
- 15 "Cowper Says State to Decline Food Irradiation
Facility"
(Press Release, Feb. 7, 1989)
- 16 United Fishermen of Alaska, Resolution 89-5
- 17 Labelling requirements memorandum
- 18 List of Articles in Rep. Phillips' Office



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

REPRESENTATIVE RANDY PHILLIPS
HOUSE DISTRICT 15
(907) 465-4949

P.O. Box V
State Capitol
Juneau, Alaska 99811

Memorandum

TO: Representative Ben Grussendorf
Chairman, House Rules Committee

FROM: Representative Randy Phillips *R.P.*

DATE: March 23, 1989

RE: Proposed Rules Committee Substitute for House Bill 25
Irradiated Foods

As requested by your staff, I have prepared a description of the differences between CSHB 25 (Finance) and the proposed substitute. I appreciate your consideration of this bill and would urge that the proposed substitute (marked 6-0222J, 2/13/89) be adopted by the Rules Committee.

Additionally, the Division of Legal Services has prepared a sectional analysis for the proposed substitute and that is attached to this memorandum.

Page/Line

Proposed Changes from Finance

1/6-12 (Title)

added to title: "authorizing embargo and detention remedies in the case of a violation of the prohibition against the sale of irradiated food;"

change last word to "prohibitions" from "prohibition"

1/12-3/11

All deleted

1/14-22

Allows the Commissioner to embargo and detain. This amendment was requested by Representative Kay Brown and the Department of Environmental Conservation

1/23-2/1

Is similar to Section 2 in the Finance CS. Makes Department of Environmental Conservation responsible for enforcement and adds reference to irradiated foods

Page/Line

Proposed Changes from Finance

within the enforcement language.

2/2-9

Prohibits the knowing sale of irradiated food and defines irradiated food. Due to the February 9, 1989, memorandum from Legislative Counsel Bannister to the Co-Chairmen of House Finance, the language in the Finance CS was changed to the current proposal. The new language still accomplishes my goal of prohibiting the sale, manufacture and production within Alaska of irradiated foods.

For your information, I have attached a copy of the February 9, 1989, memorandum from Legislative Counsel Bannister.

Also attached is a copy of a letter from Commissioner Dennis Kelso of the Department of Environmental Conservation concerning the detain and embargo addition to the bill.

I have requested that Legislative Counsel Bannister and a representative from the Department of Environmental Conservation be present at your committee meeting to answer any technical questions concerning the proposed substitute.

If you have any questions, please do not hesitate to contact me.

6-0222J
Bannister
3/22/89

Original sponsors: Phillips and Brown

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 25 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting under the Alaska Food, Drug, and
7 Cosmetic Act the knowing sale of irradiated food;
8 authorizing embargo and detention remedies in the
9 case of a violation of the prohibition against the
10 sale of irradiated food; and making the commissioner
11 of environmental conservation responsible for enforcing
12 the prohibition."

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

14 * Section 1. AS 17.20.230 is amended by adding a new subsection to read:

15 (c) If the commissioner of environmental conservation finds or
16 has probable cause to believe that a person is violating AS 17.20.-
17 290(d), the commissioner may affix to the food that is the subject of
18 the violation a tag or other appropriate marking that gives notice
19 that the food may not be sold and warning all persons not to remove or
20 dispose of the food until permission for removal or disposal is given
21 by the commissioner or a court. A person may not remove or dispose of
22 the detained or embargoed food without this permission.

23 * Sec. 2. AS 17.20.290(b) is amended to read:

24 (b) The commissioner of environmental conservation or a designee
25 of the commissioner is responsible for enforcing the provisions of
26 [PARAGRAPHS] (a)(1), (2), (3), (4), (6), (7), (8), (9), and (10) of
27 this section, if the subject of the prohibited act involves food or
28 cosmetics, and the provisions of [PARAGRAPH] (a)(12) and (d) of this
29 section. This subsection does not limit the authority of peace

1 officers.

2 * Sec. 3. AS 17.20.290 is amended by adding a new subsection to read:

3 (d) The knowing sale of irradiated food is prohibited.

4 * Sec. 4. AS 17.20.370 is amended by adding a new paragraph to read:

5 (14) "irradiated food" means food that has been treated
6 with gamma radiation or other ionizing radiation; "irradiated food"
7 does not include spices that have been irradiated or food that con-
8 tains spices that have been irradiated unless there are other irradi-
9 ated ingredients in the food.
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because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account among other things representations made or suggested by statement, word, design, device, sound or combination of them, and the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement or under customary or usual conditions of use. (§ 2(1) ch 129 SLA 1949)

Collateral references. — Products liability of manufacturer or seller for injury or death allegedly caused by failure to warn regarding danger in use of vaccine or prescription drug; 94 ALR3d 748.

Promotional efforts directed towards prescribing physician as affecting pre-

scription drug manufacturer's liability for product-caused injury, 94 ALR3d 1090.

What constitutes 'false advertising' of food products or cosmetics within §§ 5 and 12 of the Federal Trade Commission Act (15 U.S.C.S §§ 45, 52), 50 ALR Fed. 16.

Sec. 17.20.310. Penalties. A person who violates the provisions of AS 17.20.290, upon conviction, is punishable by imprisonment for not more than six months, or by a fine of not more than \$500, or by both. If the violation is committed after a conviction under this section has become final, the person is punishable by imprisonment for not more than one year, or by a fine of not more than \$500, or by both. (§ 5(a) ch 129 SLA 1949)

Sec. 17.20.320. Effect of written guaranty. A person is not subject to the penalties of AS 17.20.310 for having violated AS 17.20.290(1) or (3) if that person establishes a guaranty or undertaking signed by and containing the name and address of the person residing in the state from whom the article was received in good faith, to the effect that it is not adulterated or misbranded within the meaning of this chapter. (§ 5(b) ch 129 SLA 1949)

Sec. 17.20.330. Liability for dissemination of false advertising. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, is liable under AS 17.20.310 for the dissemination of the false advertisement, unless the publisher, licensee, agency or medium has refused the request of the commissioner of health and social services to furnish the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state who caused dissemination of the advertisement. (§ 5(c) ch 129 SLA 1949; am Executive Order No. 51, § 31 (1981))

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any room, building, vehicle of transportation or other structure which is unsound, or contains filthy, decomposed, or putrid substance, or a substance that may be poisonous or deleterious to health or otherwise unsafe, is a nuisance. Whenever the commissioner of environmental conservation finds such an article, the commissioner shall immediately condemn or destroy it or in any other manner render it unsalable as human food. (§ 6(d) ch 129 SLA 1949; am Executive Order No. 51, § 29 (1981))

Effect of amendments. — The 1981 amendment added "of environmental con- servation" following "the commissioner" in the second sentence.

Sec. 17.20.280. Injunction proceedings. The commissioner of environmental conservation and the commissioner of health and social services may apply to the superior court for, and the court has jurisdiction to grant, a temporary or permanent injunction restraining a person from violating their respective portions of AS 17.20.290. (§ 4 ch 129 SLA 1949; am Executive Order No. 51, § 29 (1981))

Effect of amendments. — The 1981 amendment added "of environmental con- servation and the commissioner of health and social services" following "commis- sioner" and added "their respective por- tions of" following "person from violating."

Article 6. Prohibited Acts and Penalties.

Section	Section
290. Prohibited acts	320. Effect of written guaranty
300. Determination of misleading labeling or advertisement	330. Liability for dissemination of false advertising
310. Penalties	

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, § 40 et seq.; 35 Am. Jur. 2d, Food, § 63 et seq., 74 et seq.

Sec. 17.20.290. Prohibited acts. (a) The following acts and the causing thereof are prohibited:

- (1) the manufacture, or sale, or delivery, holding, or offering of sale of food, drug, device, or cosmetic that is adulterated or misbranded;
- (2) the adulteration or misbranding of food, drug, device or cosmetic;
- (3) the receipt in commerce of food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery of them for pay or otherwise;
- (4) the sale, delivery for sale, holding for sale, or offering for sale of an article in violation of AS 17.20.050 — 17.20.070 and 17.20.100;



Official Business

Alaska State Legislature

House

REPRESENTATIVE RANDY PHILLIPS
HOUSE DISTRICT 15
(907) 465-4949

P.O. BOX V
State Capitol
Juneau, Alaska 998

Memorandum

TO: Representative John Sund
Chairman, House Judiciary Committee

FROM: Representative Randy Phillips *RCP*

DATE: March 7, 1988

RE: Food and Drug Administration
House Bill 388

At the request of Peggy Sepulveda of your office, my staff contacted the Food and Drug Administration with a request that it provide someone to testify at the upcoming hearing on CSHB 388 (HESS).

Carl Dasser of the Federal-State Relations Division of Food and Drug Administration has advised me that the FDA cannot testify on this matter. According to Mr. Dasser, the Code of Federal Regulations prohibits the FDA from testifying before state courts, administrative hearings, state legislative committees, etc. unless (1) there is an official request (preferably written) from the person or committee requesting such testimony and (2) agency has had a chance to approve the testimony that is to be given. The FDA has been requested by other states to provide testimony on the issue of food irradiation and has uniformly refused to testify; therefore, it is, at this time, refusing our request to present testimony.

Mr. Dasser indicated that if you had any questions about the testimony process that he would be happy to address your questions. His telephone number is (301) 443-6200. If you wish to present the FDA with a written request for testimony and questions that you would like answered, please address this to: Heinz Wilms, Director, Division of Federal-State Relations (HFC-151), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. If you or a member of your staff wishes to discuss the subject of food irradiation on an informal basis, please contact Mr. Dasser and he can make arrangements for someone from the Center of Food Safety to contact you.

Again, Mr. Dasser emphasized that since the FDA had turned down similar requests from other states, it felt it could not honor a request to participate in the hearing to be held this coming Wednesday.

History of Food Irradiation

- 1898 - Bactericidal effects of x-rays first observed.
- 1905 - Patents for food irradiation process first issued in United States and Europe.
- 1920 - U.S. patent granted for irradiating beetles in tobacco with x-rays.
- 1930 - French patent issued for preserving food by irradiation.
- 1943 - U.S. Army contracts with Massachusetts Institute of Technology to study feasibility of extending shelf life of food with irradiation.
- 1947 - MIT reports that shelf life of food can be extended through irradiation, offering a new method for assuring provisions for combat troops in remote battlefields.
- 1953 - U.S. Army Quartermaster Corps takes up food irradiation study at its laboratory in Natick, Mass., in conjunction with MIT, in federally funded study of irradiation of meat, fish, fruits, vegetables and dairy products.
- 1963 - U.S. Food and Drug Administration approves gamma irradiation to preserve canned bacon and for insect disinfestation of wheat and wheat products.
- 1964 - FDA approves irradiation for sprout inhibition of white potatoes.
- 1966 - FDA approves labeling requirements for irradiated foods.
- 1968 - FDA rescinds bacon irradiation rules after finding the studies on which original approval was made were based on poor laboratory quality controls.
- Late 1960s - American astronauts and Russian cosmonauts begin eating radiation sterilized foods in space.
- 1969 - United Kingdom approves use of radiation sterilized foods in hospitals.
- 1975 - American astronauts and Russian cosmonauts share a meal of irradiated food in space aboard connection of Apollo-Soyuz capsules. Space explorers continue to dine on radiation sterilized food, as do others requiring such food in isolation, such as hospitalized bone marrow transplant patients.
- 1979 - FDA's Director of Bureau of Foods establishes the Irradiated Food Committee to provide a total reassessment of all relevant issues applicable to irradiated foods.
- 1981 - FDA publishes advanced notice of proposed rules on food irradiation in the *Federal Register*.
- 1981 - FDA offers to approve the use of irradiation for treating the California medfly crisis, provided certain conditions were met. Process not used because no person or organization applied for its use.
- 1983 - FDA approves irradiation of a specific list of spices and vegetable seasonings for microbial decontamination.
- 1984 (Feb. 14) - FDA publishes its proposed rule in *Federal Register* to allow irradiation of fresh produce for sprout inhibition, shelf-life extension and insect disinfestation of fresh produce and for sterilizing spices.
- 1984 (June 19) - FDA approves irradiation treatment to control insect infestation in garlic powder, onion powder and dried spices.
- 1985 (April) - FDA expands list of dried spices and vegetable seasonings that can be irradiated.
- 1985 (June) - FDA allows certain dried enzymes to be irradiated to control insect and microbial infestations.
- 1985 (July) - FDA approves low dose irradiation of pork and pork products to control trichinosis, the parasitic worm found in the muscles of some infected hogs.
- 1985 (December) - Canadian government announces it will allow food irradiation at up to 1,000 kilorads, 10 times the dose allowed in the United States, with only limited labeling requirements.
- 1986 (January) - The U.S. Department of Agriculture approves its own rules and guidelines for irradiating pork products.
- 1986 (April) - FDA publishes its final rule on post-harvest, low dose irradiation treatment of fresh fruits and vegetables and high dose irradiation of spices in the *Federal Register*.
- 1986 (June) - The British Advisory Committee on Irradiated and Novel Foods issues report recommending that food irradiation be legalized in the United Kingdom at doses up to 1,000 kilorads and that labeling be required.
- 1986 (June) - The People's Republic of China opens a commercial-size food irradiation plant in Shanghai and announces plans to build five regional food irradiation plants around the country.
- 1986 (July) - The U.S. Department of Energy announces it will build six regional food irradiation demonstration centers in the states of Alaska, Florida, Hawaii, Iowa, Oklahoma and Washington. A transportable cesium food irradiator is already operational under the DOE's Byproducts Utilization Program.
- 1986 (September) - Irradiated Puerto Rican mangoes go on sale in a one-time only test market in North Miami Beach, marking the first time in history that irradiated food is made commercially available in the U.S. The two tons of irradiated mangoes, at \$1.49 a pound, are sold out within a week.
- 1986 (September) - Canadians announce plans to open food irradiation demonstration center in Montreal.
- 1987 (January) - USDA's Animal and Plant Health Inspection Service's rules for irradiating Hawaiian papaya are published in the *Federal Register*.
- 1987 (February) - USDA's petition for irradiation of chicken and poultry products to control salmonella is published by the FDA in the *Federal Register*.
- 1987 (March) - FDA rejects requests to put a hold on its new food irradiation rules adopted in April 1986, pending its decision on whether to hold requested public hearing on the new rules.
- 1987 (March) - FDA publishes petition from Radiation Technology, Inc., requesting irradiation treatment of poultry to control salmonella. Petition is similar to one published in February by the USDA.

FDA'S LIST OF FOODS AUTHORIZED FOR IRRADIATION

FOODS:

Fruits and Vegetables (April 18, 1986)
 Pork (July 22, 1985)
 Wheat, Wheat Flour
 White Potatoes
 Dried Enzyme Preparations

HERBS AND SPICES (Dried): (since July 1983)

Allspice	Cardamon	Cloves	Fenugreek	Manoram	Oregano	Peppery Seed	Saffron
Anise	Celery Seed	Conander	Garlic Powder	Mustard Seed	Parsley	Rosemary	Sage
Basil	Chamomile	Cumin Seed	Ginger	Mustard Flour	Pepper, Black and White	Savory	Sesame Seed
Bay Leaves	Chervil	Dill Seed	Grains of Paradise	Nutmeg	Red Pepper		
Caraway Seed	Chives	Dill Weed	Horseradish	Onion Powder	Peppermint		
Black Cumin	Cinnamon	Fennel Seed	Mace	Orange Peltis			



* All the above listed foods are authorized for irradiation. That means they could legally be irradiated at any time. Presently we know of no whole foods that are routinely being irradiated and sold on a retail level with the following exceptions:
 Puerto Rican mangoes were test marketed on a limited basis in Miami,

Florida in Sept. 1986. (See Consumers Take Notice, Vol. 1, No. 1, p. 10). A small amount of spices being used in processed foods. Although they are considering a request from Radiation Technology Inc. the FSIS has not yet authorized any commercial irradiator to irradiate pork.



HOT NEWS

Cesium Salad

Brussels

Wild mushrooms in Belgium and Luxembourg have been found to contain dangerously high levels of radioactive cesium 16 months after the Chernobyl nuclear disaster in the Soviet Union, officials said yesterday.

A Luxembourg government official said it had banned the sale of one type of mushroom after tests showed cesium levels greater than recommended safety levels.

P.S.: Cesium never quits.

Home-Dumping

Radioactive Waste Dump Plan Ratified

California has ratified a four-state compact that provides for the dumping of low-level radioactive waste in the state's eastern desert into the next century.

Legislation ratifying the pact was signed Thursday by Governor Deukmejian.

The bill by Assemblyman Steven Peace, D-Chula Vista, puts California into compliance with a 1980 federal law that requires the states to dispose of low-level radioactive wastes within their borders. It ratified by North and South Dakota and Arizona. It would be the first pact of its kind in the nation.

The waste — to be buried 40 feet underground in a dump site as large as three football fields — will consist of contaminated items, such as gloves, tools and other supplies used by hospitals, laboratories and nuclear plants. It will not include spent fuel from nuclear reactors.

CHERNOBYL'S LEGACY

It seems radiation, like guilt, keeps on giving. According to a study of the April 26, 1987 Soviet accident by the Lawrence Livermore National Laboratory in Livermore, California, the nuclear accident released as much long-term radiation into the world's air, topsoil and water as all the nuclear tests and bombs ever exploded. The report goes further to say this long-term radiation may contain 50% more cesium-137 than the total radiation produced by all atmospheric tests. Cesium-137 does not decay into harmless products for more than 600 years.

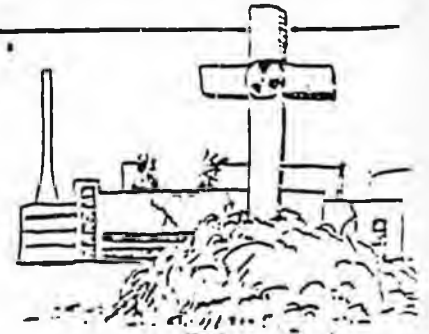
Using computer projections, Dr. John Gofman, Professor Emeritus of Medical Physics at the University of California (Berkeley), estimated that 1 million people, including over half a million outside the Soviet Union, will develop cancer as a result of the Chernobyl accident and half of these cancers would be fatal.

In a separate projection Ernest Stenmoss, Ph.D., of the Radiology Department at The University of Pittsburgh, Pennsylvania, arrived at a similar estimate: 150,000-600,000 additional cancer deaths in Europe resulting from Chernobyl.

Both these estimates are derived from research by Dr. Abram Petkau, published in 1972 (the Journal of Health and Physics). Dr. Petkau's experiments showed that very low dose radiation over a prolonged period (protracted low dose exposure) produces unexpectedly large free radical damage compared to short exposures to medical x-rays or direct radiation from atomic fallout. This occurs, according to Petkau, because the free radical process becomes extremely efficient at low levels of radiation. Low dose radiation produces fewer free radicals which are statistically better able to do damage to the cell membrane. The insidious action of radiation on DNA in the cell produced mutations that lead to cancer, cancer is a free radical process. However, at high doses of radiation over a short period of time, the free radical process becomes very inefficient due to the extremely large number of free radicals generated per unit volume. These radicals are so reactive they smash into each other and literally wipe themselves out.

Dr. Petkau's observation seems to explain why less people died immediately after Chernobyl and Hiroshima than anticipated. Based on data from the Hiroshima experience, leukemia and other cancers are currently occurring among children and adults at 100-1000 times the predicted rate 40 years after the bombing.

You'd think we might have learned that radiation is unforgiving.



LOOKING FOR THE K.O.

In the August 21st issue of the Food and Drug Administration's newsletter, the editors of this industry analyzed the food irradiation controversy with interesting insights.

"Food producers aren't enthusiastic about the process. They hesitate because of certain uncertainties of the technology, high costs and the possibility of rejection of irradiated foods as dangerous. We share the anxiety about customer resistance."

In an interview with Sharon Bomer, executive director of The Coalition For Food Irradiation (CSFI), she confesses "there were irradiation companies that tended to blow the issue out of proportion to make fantastic claims." Bomer was talking about companies in the business of irradiating medical supplies and who wanted to move into food irradiation.

George Giddings, formerly of Isomedix, a company that irradiates medical supplies, feels that the biggest hurt to food irradiation was The Department of Energy (DOE).

"The DOE program is the single most costly aspect of food irradiation," Giddings says. "The student anti-nuclear types see it as a ploy of DOE in favor of the nuclear power industry. They see a conspiracy to push food irradiation. If this program were eliminated there was no hypothetical possibility of implementing this cesium/plutonium scenario. I think much of the crazy food irradiation controversy will evaporate in no time."

Bomer blames the commercial irradiators. Giddings blames the DOE for the failure of food irradiation. Both of them seem to ignore the fact that the people in the anti-food irradiation movement have a deep commitment to safety of the food and the environment.

The Food & Drug Administration newsletter editors conclude...

A Short History of Trouble Irradiation Hall Of Shame

The industrial irradiation industry is relatively new. Created in the mid 1970's to sterilise medical supplies and packaging materials, this young industry has had a troublesome safety record. Problems have included radioactive leaks, spills, worker overexposures, failed or bypassed safety systems and failure to report to the Nuclear Regulatory Commission. The state of New Jersey hosts many of these problem plants. What follows is a summary of the 13 most significant incidents which have occurred in the last 12 years.

JUNE 16, 1974 Chief of radiation operations at the Isomedix irradiation plant in Parsippany, N.J. received an estimated 400 rem radiation dose, when he failed to take proper safety precautions. William McKim barely survived the one or two second overexposure to 147,000 curies of cobalt-60. Mr. McKim was in critical condition for one month before recovering.

1976-1980 In 1976 a double encapsulated cobalt-60 source was found leaking at the Isomedix irradiation plant in Parsippany, N.J. Following ion-exchange filtration, the source pool water was dumped down the plant's toilet. An extensive cleanup program followed which involved jackhammering concrete from the walls and floor of the source pool. During cleanup operations, Chem-Nuclear Corp. found the toilet and toilet pipe to be radioactive. Eventually, the toilet, stools, and parts of the source pool were shipped to a radioactive burial ground.



MARCH 14, 1977 The Nuclear Regulatory Commission fines Radiation Technology Inc. (RTI) \$4050.00 following an October 1976 inspection which identified 10 violations of RTI's license. Violations included, failure to report a leaking cobalt-60 source, failure to adequately evaluate radiation doses to workers, disposing of radioactive material as normal trash and failure to provide required training to employees.

SEPTEMBER 23, 1977 An employee at the Radiation Technology Inc. (RTI) plant in Rockaway, N.J. entered the radiation cell for 10-20 seconds and received a whole body dose between 150-300 rems. The direct cause of the overexposure was a decision by RTI management to operate the facility with the safety interlock system inoperative.

SEPTEMBER 2, 1982 A service technician at the irradiation plant at the Institute for Energy Technology, Newark, was exposed briefly to the 650,000 curie cobalt-60 source. The plant worker received an estimated dose of 1,000 rems, and died on September 15, 1982 from radiation injury.

JUNE 11, 1986 Radiation Technology Inc., cited in 1962 as a source of ground water pollution, was ordered by the State of New Jersey to pay a \$600,000 directive to study the problem. Volatile organics such as trichloroethylene, methylene chloride, and trichloroethane were found in test wells drilled on RTI's 15 acre site in Rockaway, N.J. The toxic products were stored in 100 bulging, rusty, leaky 55 gallon drums on the company's property.

JUNE 24, 1986 A federal grand jury indicts Eugene T. O'Sullivan, San Jose, Calif., and Bruce J. Thomas of Somerville, N.J., both employees of International Nutronics Inc. (INI) of Palo Alto, Calif. INI and the two employees are charged with conspiracy, mail fraud, wire fraud, and concealing a radiation spill from the Nuclear Regulatory Commission (NRC). In 1982, INI found a leaking cobalt-60 source in their source pool. A cleanup was begun which involved pumping the radioactive water through filters. During the filter operations, which were left running unattended overnight, a discharge line became detached, spilling radioactive water onto the floor of the plant. INI employees were then instructed to dump the water down bathroom drains and into the public sewer system. INI then delayed an NRC inspection and attempted to hide radiation contamination from inspectors. (see detail article in this issue)

JUNE 24, 1986 The Nuclear Regulatory Commission (NRC) revokes operating licenses for Radiation Technology Inc. (RTI) at their Rockaway, N.J. facilities. The license suspension comes after an NRC investigation into charges that RTI lied and deceived the NRC in regards to a March 3, 1986 shutdown. The March shutdown came after the NRC found RTI had bypassed safety equipment during plant operations, a repeated RTI failure, identical to the failure which led to the worker overexposure in Sept. 1977. The NRC has turned this case over to the N.J. Justice Dept. for consideration.

SCIENCE BOX

COBALT-60 is a radioactive isotope of the metal cobalt. It is created by bombarding nonradioactive cobalt rods in a nuclear power reactor. Cobalt-60 gives off gamma rays and beta particles as it decays.

REMS are an arbitrary measure of radiation effects on living tissue. Like degrees or pounds, the number of rems increase as exposure to radiation increases. One chest X-ray, given to a 150 pound adult gives a dose of 3/100ths of one rem.

173

LIST OF THE 40 IRRADIATION FACILITIES IN THE U.S.
(not including those that can be found at hospitals of Universities)

This information was received by correspondence with the NRC (Nuclear Regulatory Commission) or the state licencer's who is in charge of radioactive materials. Information on the specific irradiation companies was received by correspondence or through phone calls with the companies.

ALABAMA - None

ALASKA - None

ARIZONA - None

ARKANSAS - (1) PROCESSED TECHNOLOGY INC., P.O. BOX 256, West Memphis, AR, 72301. They irradiate: Food (on reasearch basis), medical products, cosmetics, and pharmaceutical products with Cobalt 60. P.T.I. is a subsidiary of Radiation Technology out of Rockaway, New Jersey.

CALIFORNIA - (3) INTERNATIONAL NUTRONICS INC., 1962 Barranca Rd., Irvine, CA 92714 and INTERNATIONAL NUTRONICS INC., 1237 North San Antonio Rd., Palo Alto, CA 94303. They irradiate: Spices, Medical devices, medical products, electronic components, parts for nuclear reactors, gem stones and cosmetics. Cobalt 60 is used.
RADIATION STERILIZERS, 1401 Morgan Circle, Tustin, CA, 92680. They irradiate: Spices, medical devices, and "Bag in a Box" - a plastic bag that slips into a cardboard box that wine comes in. Cobalt 60 is used.

COLORADO - (2) COBE LABORATORIES, 1185 Oak Street, Lakewood, Colorado, 80215-4407 They irradiate: Medical devices and Gem stones. Cobalt 60
IOTECH INC., 11080 Irma Drive, Northglenn, CO, 80233. They irradiate: Medical products. Cesium 137 is used.

CONNETICUT - (1) BECTON DICKENSON, North Canaan, CT: Cobalt 60

DELAWARE - None

FLORIDA - (1) SHERWOOD MEDICAL, 2010 New Daytona Rd., Deland, Florida, 32720. They irradiate: Medical products. The Florida licensing office said they are aware of two other irradiation facilities both tentative as of Jan. 1987. One to be operated by a commercial firm out of Tampa and the other to be a joint facility by the D.O.E. and the Dept of Agriculture out of Gainesville. Construction by CH2M Hill. The commercial firm will irradiate strawberries and D.O.E. food.

GEORGIA - (1) RADIATION STERILIZERS INC., 2200 Mellon Court, Decatur, Georgia, 30035. They irradiate primarily medical supplies but also irradiate spices and "Bag in a Box." They use Cesium 137.

HAWAII - None

IDAHO - None

ILLINOIS - (3) ISCMEDIX INC., 7829 Nagle Ave., Morton Grove, ILL. 60053. They irradiate: Spices, disposable medical supplies, medical devices, nuclear device testing, cosmetic research and food research.

ILLINOIS - (cont.) ISCMEDIX INC., 1880 Industrial Dr., Liberty, Ill., 60048
 They irradiate: Some spices, disposable medical supplies, medical devices, some nuclear device testing, cosmetic research and food research.

RADIATION STERILIZERS INC., 714 East Cooper Court, Schamberg, Ill. 60195. They irradiate: Spices, medical products, cosmetics, gem stones, and nuclear testing equipment.

INDIANA - (1) ELI LILLY AND COMPANY, Lilly Corporation Center, Indianapolis, Indiana, 46285. They irradiate: pharmaceutical products.
 (address: 307 East McCarty Street)

ICWA - None

KANSAS - None

KENTUCKY - None

LOUISIANA - None

MAINE - None

MARYLAND - (2) Both irradiators are NEUTRON PRODUCTS, 22301 Mount Ephraim Rd., Maryland, 20842. They irradiate: food stuffs (non-commercial), cosmetics, baby powder, hand lotion, cosmetics packing, gem stones, personal care products, nuclear reactors parts, polymers, and medical devices. One irradiator has one and a half million curies and the other 400 curies of Cobalt 60. Neutron Products is primarily involved in construction of Cobalt 60 rads.

MASSACHUSETTS - (1) ISOMEDIX, 435 Whitney Street, Northborough, MA., They irradiate: some spices, disposable medical supplies, medical devices, some nuclear device testing, cosmetic research and food research.

MICHIGAN - None

MINNESOTA - (1) 3M (Minnesota mining and Manufacturing Company), 220 -2E-02, 3M Center, St. Paul, MN, 55144-1000

MISSISSIPPI - (1) ISOMEDIX INC., Industrial Park South, Box 2044, Columbus, MS, 39704. They irradiate: Some spices, disposable medical supplies, medical devices, some nuclear device testing, cosmetic research, and food research.

MISSOURI - None

MONTANA - None

NEBRASKA - (2) BECTON DICKINSON AND COMPANY, 150 South 1st, P.O. Box 686, Broken Bow, NE, 68822. They irradiate: Medical supplies only.
SHERWOOD MEDICAL, P.O. BOX 1169, Norfolk, NE 68701. They irradiate medical supplies.

NEVADA - None

NEW HAMPSHIRE - None

NEW JERSEY - (6) ISCMEDIX, 9 Apollo Drive, Whippany, NJ, 07981. They irradiate:

NEW JERSEY -(cont.) Isomedix- Some spices, disposable medical supplies, medical supplies, medical devices, some nuclear device testing, cosmetic research and food research.
ISOMEDIX, 25 Eastmans Rd., Parsippany, NJ 07054, They irradiate see above, Isomedix.
ETHICON, (Johnson and Johnson), Route 22, Sommerville, NJ, 088 They irradiate: Medical Products
RADIATION TECHNOLOGY, 108 Lake Denmark Rd., Rockaway, NJ 07866
They irradiate: Food (research and development), medical devices, cosmetics, Spices, electronic components, testing of nuclear devices, Gem stones, personal care products, and food packaging. They use Cobalt 60.
PRECISION MATERIALS CORPORATION, Replogle Ave., Mine Hill, NJ 07801.
PROCESSED TECHNOLOGY, Salem, NJ. (Subsidiary of Radiation Technology. They irradiate: Food on a research basis, medical products, cosmetics, and pharmaceutical products. Cobalt 60 is used.

NEW MEXICO - None

NEW YORK - None

NORTH CAROLINA - (1) PROCESSED TECHNOLOGY, INC., P.O. BOX 757, Haw river, NC, 27253.
They irradiate: Food on a research basis, medical devices, cosmetics, and pharmaceutical products. (Subsidiary of Radiation Technology) Cobalt 60 is used with a 1.3 million curie source

NORTH DAKOTA - None

OHIO - (2) ISOMEDIX, 4405 Marketing Place, Groveport, Ohio, 43125, They irradiate: see Isomedix New Jersey.
RADIATION STERILIZERS, 305 Enterprise Drive, Westerville, Ohio, 43081.
They irradiate: see Radiation Sterilizers, California. They use Cesium 137 for irradiation.

OKLAHOMA - None

OREGON - None

PENNSYLVANIA - (1) PERMAGRAN PRODUCTS INC., 115 Reactor Road, Karthaus, PA. 16845.
They irradiate: Manufactured floor products.

RHODE ISLAND- None

SOUTH CAROLINA - (2) BECTION DICKENSON AND COMPANY, Airport Rd., Sumter S.C., 29150.
They irradiate: Medical Supplies.
ISOMEDIX, Highway 295, P.O. Box 3408, Spartanburg, SC, 29304
They irradiate: Some spices, disposable medical supplies, medical devices, some nuclear device testing, and food research.

SOUTH DAKOTA - (1) 3M, 601 22nd Ave., South, Brookings, SD 57006. They irradiate: Medical Products.

TENNESSEE - None

TEXAS - (6) RADIATION STERILIZERS INC., 3001 Wichita Ct., Ft Worth, TX, 76140.
They irradiate: Spices, Food on a research basis, medical products, cosmetics, gem stones, and nuclear device testing.
SHERWOOD MEDICAL, 400 Maple Street, Commerce, TX. They irradiate:

TEXAS -(Cont.) Sherwood Medical: Medical Products.
AMERICAN PHARMASEAL COMPANY: one Butterfield Trail, El Paso, TX
79906. They irradiate: Medical Products. (Two unit facility.)
ETHICON INC., P.O. Box 511, San Angelo TX 76902. They irradiate
Medical Products. (A Johnson and Johnson Company.)
SURGIKOS INC., P.O. Box 130, Arlington, TX 76010. They irradiate:
Medical devices. (A Johnson and Johnson Company)
JOHNSON AND JOHNSON, U.S. Highway 75 South, Sherman TX 75090
They irradiate: Medical Products.

UTAH - (1) ISOMEDIX, 9120 South 150 East, Sandy ,Utah, 84070. They irradiate:
disposable medical supplies, some spices, some nuclear devices,
cosmetics research and food research.

VERMONT - None

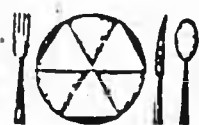
VIRGINIA - (1) APPLIED RADIANT ENERGY CORPORATION, 2432 Lakeside Dr., Lynchburg,
Virginia, 24501. They irradiate: Spices, Flour, Wheat, Medical
devices, Pharmaceutical products, Electronic components, personal
care products, douches (experimental to date) and marine samplers.

WASHINGTON- None, But two are in the conceptual phase. One will be a fixed location
irradiator and the other a transportable unit for agricultural products.

WEST VIRGINIA -None

WISCONSIN - None

WYOMING - None



NCSFI

NATIONAL COALITION TO STOP FOOD IRRADIATION

P.O. Box 59-0488, San Francisco, CA 94159

Phone: (415) 566-2734

NEWS RELEASE

FOR RELEASE:
December 17, 1987

FOR MORE INFORMATION CONTACT

Denis Mosgofian: (415) 566-2734

National Coalition to Stop Food Irradiation

John C. Savagian: (212) 349-6460

New York Public Interest Research Group, Inc.

ILLEGAL IRRADIATED INGREDIENT USED IN RICE-A-RONI & NOODLE-RONI MANUFACTURED BY SUBSIDIARY OF QUAKER OATS COMPANY OF CHICAGO

The New York Public Interest Research Group (NYPIRG) and the National Coalition to Stop Food Irradiation (NCSFI), today publicly announced that Quaker Oats Company, Chicago, Illinois, appears to be in direct violation of the Food and Drug Administration's April 18, 1986 Final Rule authorizing ionizing radiation treatment of certain approved foods. In a letter to NYPIRG, Quaker acknowledged that its subsidiary, Golden Grain Macaroni Company, has been using irradiated mushrooms in two of its products, CHICKEN & MUSHROOM RICE-A-RONI & CHICKEN AND MUSHROOM NOODLE-RONI.

Following receipt of the letter, a joint investigation by NYPIRG and NCSFI was conducted between October and December of this year. Their research revealed that Golden Grain was using mushrooms imported from Taiwan by Cade-Grayson Company, Vista, CA. Cade-Grayson says its irradiation is done in Taiwan and by Radiation Sterilizers Inc., Tustin, CA, and was formerly done by the defunct Precision Materials Corp., Mine Hill, New Jersey.

In tracking down the use of the cobalt-60 irradiated mushrooms, NCSFI's Director, Denis Mosgofian learned in conversations with a source at Cade-Grayson that the mushrooms were currently being irradiated at an average absorbed dose of 1,000,000 rads, ten times the dose permitted for any food item (except spices, herbs and enzymes) sold in the United States. Imported food items, according to the FDA, must conform to FDA and USDA regulations for U.S. produced and processed foods. "Monitoring imports has always been our problem," said Dr. George Pauli of the FDA. Because the FDA has no test to determine if a food has been irradiated and at what dose, inspectors are helpless to stop illegal imports.

"This abuse of the irradiation approval illustrates our concern that the government was so eager to approve irradiation to accommodate the Department of Energy, that it simply ignored the consumer protection and inspection requirements for permitting nuclear food processing. It is because of this incident and a myriad of other health, environmental and worker exposure concerns that Congress must now demonstrate its concern for the American people and pass the Bosco/Mitchell bill, THE FOOD IRRADIATION SAFETY AND LABELING REQUIREMENT ACT OF 1987, HR 956 AND S 461. Congress must impose a moratorium on the use of irradiation. If Congress is waiting for a smoking gun, we have just found it!", said Mosgofian.

Further research revealed that the Food and Drug Administration has no capacity to either monitor or control food irradiation, and its regulation provides zero protection for consumers. FDA's regulation does not require user of irradiation to report to FDA either products being irradiated or the dose used. FDA's regulation fails to require irradiated ingredients be identified on labels, regardless of the item's importance or percentage of the final product. FDA has no test available to determine if a food has been irradiated, nor at what dose, or a test to determine if irradiation has been utilized to cover up contaminated or old food.

According to NYPIRG and NCSFI, Quaker Oats, in using irradiated mushrooms, violated the FDA April 1986 Final Rule. According to John C. Savagian, Coordinator of NYPIRG's Food Irradiation Project, the FDA ruling does not list the irradiation of dried vegetables as one of the food items allowed. "We find it disheartening that the minute we learn a company has begun to use irradiated foods, we also find immediate violations in their compliance with FDA guidelines," Savagian said.

NCSFI and NYPIRG have asked Quaker Oats Company as the parent company, to accept responsibility for the violations and recall the Golden Grain products. NCSFI and NYPIRG have

officially asked the Food and Drug Administration to request the... have called on supermarkets nation-wide to withdraw the products from store shelves. NYPIRG and NCSFI have further asked FDA to investigate the promotion and sale of irradiated products by all dried vegetable distributors, and to request access to company records to determine whether illegally dried vegetables, fruits and possibly seafoods have been distributed to United States food processors. "These abuses may be the tip of the iceberg," said Mosgofian, "Our research verifies anti-food irradiation organizations' worst fears, that irradiation is nearly impossible to monitor and that consumers are without the slightest protection."

NYPIRG has alerted the Attorney General's Office of the State of Maine. Last May, Maine passed a law prohibiting the sale of irradiated foods. According to Savagian, the Attorney General's office has been in contact with Maine grocers, Quaker Oats and its subsidiary Golden Grain, and is now poised to get the affected Rice-A-Roni and Noodle-Roni off the shelves. Other state legislatures, such as New Jersey, are nearing completion of their own anti-irradiation bills. According to NCSFI's Mosgofian, citizens of Florida and Oregon are circulating petitions for ballot initiatives for November 1988 to ban food irradiation in their states, and the city and county of Santa Cruz, California, are preparing to enforce their local noticing ordinances which require grocers to post notices alerting consumers to irradiated foods.

"Having our national office in San Francisco, and being a proud native means that while Quaker continues to use irradiated ingredients in its Rice-A-Roni products, we will never consider it a 'San Francisco Treat,'" said Mosgofian.



NCSFI

NATIONAL COALITION TO STOP FOOD IRRADIATION

P.O. Box 59-0488, San Francisco, CA 94159

Phone: (415) 566-2734

Basic information regarding Quaker Oats Company's use of irradiated mushrooms

From: John C. Savagian, NYPIRG's Nuclear Issues Coordinator, and
Denis Mosgofian, Director, NCSFI

The Quaker Oats Company has admitted using irradiated mushrooms in its Golden Grain Chicken and Mushroom Rice-A-Roni and Chicken and Mushroom Noodle-Roni. This information came from a letter which Quaker sent to Phil West, an intern working with NYPIRG. We sent out questionnaires to the companies listed as supporters of the Coalition for Food Irradiation. When asked if they were using any irradiated products, Quaker not only said yes but also told us which products.

Golden Grain was purchased by Quaker a little less than a year ago. Jan Guifarro, Supervisor of Consumer Response Group at Quaker assured me that Quaker's policy of not using irradiated foods still stands and that Golden Grain started using irradiated mushrooms before the company became a part of the Quaker family. Her number is (312) 222-7111

The Quality Assurance Director of Golden Grain is Tom Ackart. Their office is in San Leandro, (415) 357-8400. Mr. Ackart was very helpful in providing us information. As you will note in the Quaker letter, the Company states that they had no choice in the matter, that the only products available were the irradiated mushrooms. Tom Ackart told us that they did have a choice, between treating them with fumigants and treating them with irradiation, and that their preference is not to use chemicals if they don't have to. But in fact, Golden Grain could have chosen freeze-dried mushrooms and avoided using irradiation, or they could have had them heat treated and avoided both chemicals and irradiation. Mr. Ackart also gave us the name of the company which supplied the mushrooms; Cade-Grayson.

Cade-Grayson is in California. P.O. Box 1955, Vista, CA. The number is (619) 941-2733. Cade-Grayson (a distributor of dried vegetables) imported the mushrooms from Taiwan. They were then irradiated in Taiwan, Tustin, CA, and Mine Hill, N.J. Originally they were irradiated at a dose of 300,000, then 500,000 rads. These levels were considered not sufficient to kill all the microbials and the dose was raised to the current level of 1,000,000 rads. This is ten times the dose approved by the FDA for fruits and vegetables.

Recently, we have learned that the Attorney General's Office of the State of Maine is moving fast to have these products removed from the shelves. During a conversation with an assistant to the AG, Jeff Pidot, all basic information had been corroborated regarding Quaker's use of the products, and it was now considered to be an issue of what the Agriculture Department would do about the violation. The Attorney General is James Tierney, the phone number is (207) 289-3661.

The April 18th FDA ruling allows for the irradiation of fruits and vegetables for two reasons, to slow sprouting and to kill microbials or insects on or in the product.

According to Cade-Grayson, there are two methods for preserving mushrooms, freeze drying and air drying. Freeze drying cost around \$18 a pound while air drying cost only \$7 a pound. Air drying however, does not kill all the microbials that would cause problems if the mushrooms were allowed to sit around on the shelf (as is the case with processed foods like Rice-A-Roni). Irradiation is thus added to the air drying process at a cost of only an additional .30 per pound. We have recently learned that California Vegetable Concentrates also purchases mushrooms from Taiwan, but instead of using irradiation or ethylene-oxide, the mushrooms are sent to West Germany where they are heat treated, clearly an alternative to chemicals and radiation.

WHAT ARE THE REGULATORY PROBLEMS WITH QUAKER USING THESE PRODUCTS?

According to sources in the FDA, there are three problems with this process:

1. Dried vegetables are not approved by the FDA for irradiation (see enclosed copy of FDA final rule, Friday, April 18, 1986);
2. It is illegal to import a food which is not legal to produce and use in the United States;
3. The dose of a million rads is ten times the approved dose set by the FDA on April 18, 1986, which is 100,000 rads, or radiation absorbed dose.

BACKGROUND ON THE COMPANY, CADE-GRAYSON

The two large public interest organizations learned that the importer, Cade-Grayson Company of Vista, California, has branches in Santiago, Chile and Miaoli Hsien, Taiwan.

Despite the fact that the jury is still out on the safety of consuming irradiated food, the Cade-Grayson Company "sold" Golden Grain on using irradiated mushrooms by telling the Rice-A-Roni producer that they were Cade-Grayson's only customer buying air-dried mushrooms without using irradiation, and that Cade-Grayson might have to add an upcharge for continuing to supply nonirradiated mushrooms to Golden Grain, according to Tom Ackart, Golden Grain's Quality Assurance Director.

Golden Grain was also sent a letter persuading the reader to infer that other companies, such as Campbells, Land O' Lakes, General Foods and McCormicks were using irradiated products from Cade-Grayson. NYPIRG and NCSFI attempts to learn what other irradiated ingredients were being used by these companies have not been successful. The Quality Assurance Director of General Foods, White Plains, New York, stated it was proprietary information, while Director of Consumer Response was uncertain and said she would let us know. Uncle Ben's referred researchers to their legal department. Campbells denies using any irradiated ingredients in their products.

HOW MUCH OF THIS HAS BEEN SUBSTANTIATED?

Presently, the only information that we have in writing is the original letter that Quaker Oats sent to NYPIRG that started our investigation. That letter (also enclosed) only admits to the use of irradiated mushrooms, it does not mention at what dose, who supplied them or where they came from. It is extremely difficult to get anything in writing, although we are still trying. Obviously, it will be more difficult once this information goes public.

WHAT DO THESE PROBLEMS MEAN FOR THE CURRENT LABELING REQUIREMENT?

Opponents of the present FDA ruling on irradiation have always argued that it is difficult for the public to learn which products are being irradiated and at what dose. The FDA does not require these companies to inform them they are using this process, and it has been left up to organizations like NYPIRG and NCSFI to try and track down the information. NYPIRG and NCSFI have twice surveyed the organizations listed as members of the Coalition For Food Irradiation. Many companies denied or have since withdrawn their support from the Coalition, and until the Quaker letter, only McCormicks admitted using irradiation spices.

We applaud the Quaker Oats Company and its subsidiary Golden Grain for informing the public, but it is quite possible that other food companies have not been truthful in answering our questions regarding the use of irradiated foods. The FDA has made a bad situation worse when it passed a weak label law. Presently, foods which contain irradiated ingredients do not have to be labeled. All irradiated fruits and vegetables require the Radura symbol and the words "treated with radiation" or "treated by irradiation." This coming April, the FDA will decide whether to drop the wording altogether.

Unfortunately, once we have alerted the public to this fact, as we have done regarding Quaker's Rice-A-Roni product, it is unlikely that any other company will voluntarily come forward and tell the public that it is using irradiated ingredients. Thus we are faced with the possibility that companies will be less forthcoming about using irradiated products at the same time that the FDA will relax an already weak labeling law.

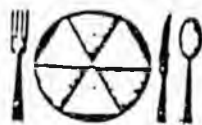
WHAT SHOULD BE DONE ABOUT THIS?

1. We demand the immediate withdrawal of these products from food stores;
2. The Quaker Oats Company should accept responsibility for the actions of its subsidiary and recall the Rice-A-Roni products;
3. The State of Maine law prohibiting irradiated foods must be enforced, as should any other state, county or city law which has restrictions on the sale of irradiated foods;
4. The Food and Drug Administration should immediately access the records of Cade-Grayson Golden Grain, and all distributors of dried vegetables to determine the actual dosage for these products and investigate the course of action which lead to the illegal irradiation and introduction of these products into the United States; the FDA should, if need be, call on Quaker to withdraw its products from the shelves.

Further information can be provided by
John C. Savagian: (212) 349-6460 and
Denis Mosgofian: (415) 566-2734.

NYPERG

9 Murray Street • N.Y., N.Y. 10007 • (212) 343-8460



NCSFI

NATIONAL COALITION TO STOP FOOD IRRADIATION

P O Box 59-0488, San Francisco, CA 94159

Phone: (415) 566-2734

December 14, 1987

Howard Pippin, Director
Division of Regulatory Guidance
Food & Drug Administration
HFF-310
200 C Street, SW
Washington, DC 20204

Dear Mr. Pippin,

This letter to your office from our organizations is a formal request that the Food & Drug Administration investigate the illegal use of irradiated dried mushrooms by Quaker Oats Company and its subsidiary, Golden Grain Macaroni Company. Attached is a copy of a letter from Quaker Oats Company describing the use of irradiated dried mushrooms in two Golden Grain products, CHICKEN & MUSHROOM RICE-A-RONI, AND CHICKEN & MUSHROOM NOODLE-RONI.

Our joint investigation, including conversation with Dr. George Pauli, has determined that (1) dried and dehydrated vegetables are not approved for gamma irradiation; (2) these mushrooms have been and are currently being irradiated at an average absorbed dose of 1,000,000 rads, ten times the maximum permitted dose allowed by FDA; (3) these dried mushrooms are being irradiated at doses in excess of FDA approved limits both here in the United States, and in Taiwan, where the imports derive; and that (4) it is illegal to import irradiated foods not legally permitted to be irradiated and sold here in the US.

Since FDA's Final Rule permitting irradiation of fresh vegetables et al does not require retail ingredient labeling, consumers in the United States are without protection from the effects of irradiation, and are denied the ability to make an informed choice.

Our organizations, on behalf of the American people, our own constituents and member organizations, ask the FDA to (1) investigate Quaker Oats Company and Golden Grain Company use of irradiated dried mushrooms; (2) investigate the importing firm, Cade-Grayson Company, for both illegally importing irradiated

dried mushrooms, and offering a host of irradiated dried vegetable, fruit and seafood products, some of which may be illegally irradiated, and at doses apparently far in excess of FDA approved limits; (3) order a recall by Quaker & Golden Grain of all their products containing illegally imported and irradiated ingredients; (4) request the company records of Cade-Grayson Company to determine what other irradiated products have been imported, at what doses irradiated, to whom distributed, in what products they were incorporated and sold; (5) order Cade-Grayson, and other distributors of dehydrated vegetable, fruit and other food products to cease and desist distribution of irradiated products in violation of the FDA regulation governing irradiation of food. We ask that FDA ask Quaker & Golden Grain to publicly accept responsibility for the illegal use of irradiated dried mushrooms and any other product they may have used, and that the public be notified that these products are being recalled.

Our organizations hereby insist FDA amend its labeling regulation for irradiated foods to include all irradiated ingredients, and also make all labeling provisions of the regulation permanent.

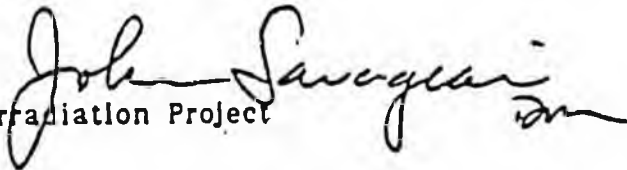
NCSFI & NYPIRG await a reply and will make available to your agency our research and files.

Sincerely,



Denis Mosgofian
Director, NCSFI

John Savagian
Coordinator, Food Irradiation Project
NYPIRG



DM:du

cc: Quaker Oats Company
Golden Grain Macaroni Company
Cade-Grayson Company.
NCSFI/NYPIRG Network
Media
Congressmembers
Attorney Generals: States of Maine, California, New Jersey,
New York, Hawaii, Alaska, Florida, Vermont



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Washington DC 20204

VA 0

Honorable Randy Phillips

1000 ...
... ..

Dear Mr. Phillips:

In a recent telephone conversation with Ms. Janet Sipes of your staff, Ms. Sipes requested information about the status of irradiated mushrooms that were used as ingredients in their food product. I have enclosed a copy of FDA's response to the legal counsel of Golden Grain.

I hope this information is adequate to resolve your concerns.

Sincerely yours,

Clyde A. Kawaguchi
Division of Food and Color Additives
Center for Food Safety
and Applied Nutrition

enclosure

APR 3

Richard L. Frank
Olsson, Frank and Weeda, P.C.
Suite 400
1029 Vermont Avenue, N.W.
Washington, D.C. 20005-3589

Dear Mr. Frank:

This is in response to your letter of January 20, 1988, concerning the use of irradiated mushrooms by your client, the Golden Grain Company, San Leandro, California. You stated your belief that dry mushrooms may be irradiated for use in food products under the provisions of 21 CFR 179.26.

I have carefully reviewed the arguments that you make in your letter, as well as the agency regulation and the regulatory history leading to the adoption of that regulation. On the basis of that review, I conclude that Golden Grain's use of mushroom bits treated with radiation is not consistent with FDA's regulation permitting irradiation of dry minor ingredients.

The regulation permits the irradiation of five classes of aromatic vegetable substance: culinary herbs, seeds, spices, teas, and vegetable seasonings. You have stated that mushroom bits should be considered as vegetable seasonings that may be irradiated under the authority of that regulation.

We agree that mushrooms may be considered as vegetable substances within the intent of this regulation but it is questionable, at best, whether mushrooms are "aromatic" or whether they are appropriately classified as "vegetable seasonings".

When FDA used the term "vegetable seasoning" in its regulation, FDA intended those vegetable substances that are used in the manner of spices and had no intention of including vegetable pieces used in the same manner as the vegetables themselves. Vegetable pieces that are used in the manner typical of vegetables, including the use described in section 155.220, may constitute a higher portion of the diet than FDA considered either in the 1984 proposal listing specific substances or in its final rule using generic terminology. Although not applicable in the case of mushrooms, the interpretation of the word "seasoning" that you suggest would include substances of nutritional value. FDA stated that the dry minor ingredients to be irradiated were not sources of nutrients.

Page 2 - Richard L. Frank

Although we disagree with you that the regulation authorizes the irradiation of mushroom pieces, we recognize that the wording of the regulation may allow for differing interpretations. Therefore, we intend to amend the wording in the near future to prevent misunderstanding. Because your client has voluntarily stopped the use of irradiated mushroom pieces, we see no need for any regulatory action on our part. Also, because any remaining safety concern by FDA concerning dry foods is limited to chronic use of such foods, we see no safety need to recall products that may have been distributed.

Finally, your letter refers to a letter from Dr. Clyde Takeguchi, stating that dry strawberry seeds are not aromatic vegetable substances, as an "FDA advisory opinion." Please note that only those opinions issued by FDA under 21 CFR 10.85 are properly considered as advisory opinions. As stated in 21 CFR 10.85(k), a letter such as the one you cited is an informal communication that represents the best judgment of that employee but does not constitute an advisory opinion and does not bind or otherwise obligate or commit the agency to the views expressed.

Sincerely yours,

LY

L. Robert Lake
Director, Office of Compliance
Center for Food Safety
and Applied Nutrition

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 9, 1989

SUBJECT: CSHB 25 (Finance)
(Work Order No. 6-0222H)

TO: Representative Ron Larson and
Representative Lyman Hoffman
Co-chairs, House Finance Committee

FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the above-referenced bill. As you are aware, the bill prohibits, in addition to the knowing sale, the "causing of" the knowing sale of irradiated food. Violations of these provisions are subject to criminal penalties under AS 17.20.310. Please be aware that the crime of "causing" a knowing sale may be too vague to withstand judicial scrutiny. The vagueness could be corrected by stating that the person must "knowingly" cause the knowing sale. This correction would require some adjustment of the bill, which I would be happy to prepare for you. Or you may wish to pass this concern along to the next committee of referral.

If I may be of further assistance, please advise.

TLB:lmb
L7/008

Enclosure

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION (907) 465-2600

OFFICE OF THE COMMISSIONER
P.O. BOX 0, JUNEAU, AK 99811-1800

February 27, 1989

The Honorable Randy Phillips
Alaska State House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Representative Phillips:

The Department recently submitted a position paper on HB 25, an Act relating to Irradiated Foods. As part of this position paper, we suggested that the bill be amended to clarify the Department's authority to embargo irradiated food products.

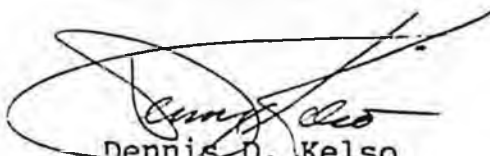
I understand that you are concerned that the department might incur additional expenses if irradiated products were detained. We do not believe this is the case. The authority does not require the department to stockpile or warehouse embargoed products.

In the seafood program, decomposed, misbranded, contaminated, or adulterated products are routinely embargoed. At times, these actions have involved hundreds of thousands of pounds of product. The Department has never warehoused any of this embargoed product.

Use of the embargo authority usually allows the department and violator to resolve the problem through an administrative action. Without embargo authority, the only options for resolution are through the injunction procedures in 17.20.280 or criminal prosecution under 17.20.310. Both of these avenues are time consuming, expensive, and may not remove the product from commerce.

Please let me know if I can provide any additional clarification.

Sincerely,



Dennis D. Kelso
Commissioner

STATE OF ALASKA
THE LEGISLATURE

HOUSE STATE CAPITAL
JUNEAU, ALASKA 99801
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 23, 1989

SUBJECT: Sectional analysis of CS HB 25()
(6-0222J, 2-13-89)

TO: Representative Randy Phillips

FROM: Theresa L. Bannister *TLB*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 authorizes the commissioner of environmental conservation to embargo and detain food that is the subject of a violation of the prohibition against the knowing sale of irradiated food, if the commissioner finds or has probable cause to believe a violation is occurring.

Section 2 indicates that the commissioner of environmental conservation (or the commissioner's designee) is responsible for enforcing the prohibition against the knowing sale of irradiated food.

Section 3 prohibits the knowing sale of irradiated food.

Section 4 defines "irradiated" as having been treated with gamma radiation or other ionizing radiation. Excludes irradiated spices from being considered irradiated food, and excludes food from being considered irradiated food if the only irradiated ingredients are irradiated spices.

TLB:kb
wkk3/032

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

January 21, 1988

SUBJECT: Scope of irradiated food bill
(Work Order No. 5-1671)

TO: Representative Randy Phillips

FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the bill on irradiated food that you requested. Although sec. 1 of the bill does not prohibit the manufacturing of irradiated food, AS 17.20.340 indicates that the manufacturing would also be prohibited. AS 17.20.340 reads as follows:

Sec. 17.20.340. SCOPE OF PROVISIONS DEALING WITH SALE. The provisions of this chapter regarding the sale of food, drugs, devices, or cosmetics include the manufacture, production, processing, packing, exposure, offer, possession, and holding of them for sale; the sale, dispensing, and giving of them, and the supplying or applying of them in the conduct of a food, drug, or cosmetic establishment.

Using the Alaska Food, Drug, and Cosmetic Act (AS 17.20) means that certain enforcement provisions in that Act, including criminal penalties (AS 17.20.310) and injunctive relief (AS 17.20.280), will apply to the enforcement of the irradiated food prohibition. Certain other provisions, including embargo and destruction of the items, would not apply to this prohibition as the bill is presently written; if you wish to have these provisions apply also, please advise.

If I may be of further assistance, please advise.

Attachment

TLB:gc
WKG1:036

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 1, 1988

SUBJECT: HB 388 and the Commerce Clause
TO: Representative Randy Phillips
FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested a written opinion on whether the prohibition in HB 388 against selling irradiated food in the state violates the Commerce Clause of the U.S. Constitution. The prohibition applies only to food sold in the state, and it does not directly regulate or discriminate against interstate commerce. The state has a legitimate interest in protecting the health and welfare of its citizens, and the bill appears to be a reasonable exercise of this power. Although the prohibition will affect interstate commerce, I cannot think of an interstate commerce effect of this bill that would be considered to clearly exceed the protection of the physical health of the state's citizens. Since the benefits of this legislation are intangible and cannot be effectively measured against its effects on interstate commerce, and since the effects on interstate commerce do not clearly exceed the benefits of the bill, it is likely that a court would uphold the legislature's decision to exercise the state's police power in this manner. For the above reasons it is my opinion that HB 388 would not be held to violate the Commerce Clause of the U.S. Constitution.

If I may be of further assistance, please advise.

TLB:gc
WKG1:058

STATE OF ALASKA
THE LEGISLATURE

POUCH V. STATE CAPITOL
JUNEAU ALASKA 998
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 10, 1988

SUBJECT: Federal preemption and CSHB 388 (HESS)
TO: Representative Randy Phillips
FROM: Theresa L. Bannister ³⁰
Legislative Counsel

You have requested an opinion whether the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) (herein FDCA) preempts the prohibition in CSHB 388 (HESS) against the sale of irradiated food. Although I do not believe that the issue is strictly black and white, in my opinion the FDCA would not preempt this prohibition.

At the outset, there is no specific preemption provision in the FDCA for this area; the FDCA does not explicitly address state laws other than for margarine. Next, the proposed prohibition does not stand as an obstacle to the accomplishment and execution of the purposes and objectives of the FDCA, since the goal of the FDCA relevant to this inquiry is to protect the individual from unsafe food, and the goal of the proposed law is the same. Finally, the proposed law does not directly conflict with the FDCA. Although the FDCA allows the use of irradiation in certain foods, it does not mandate the sale of these foods, but merely prescribes the conditions under which such things as irradiation may be safely used in certain foods. (See 21 U.S.C. 348).

In addition, I believe that a court would hesitate to preempt this proposed law for two reasons. The first reason is that the prohibition of the sale of irradiated food in the state falls within the traditional police powers of the state to protect the health and welfare of its inhabitants. The second reason is that there is a growing reluctance of courts to infer federal preemption of state laws. 55 U. S. Law Week 2226.

Representative Randy Phillips
Page 2
March 10, 1988

In conclusion, I believe that it is unlikely that a court would hold that the prohibition proposed by CSHB 388 (HESS) against the sale of irradiated food to be preempted by the Federal Food, Drug, and Cosmetic Act.

If I may be of further assistance, please advise.

TLB:gc
WKG2:45

FRANK AND WELLS
January 20, 1988

L. Robert Lake
Director
Office of Compliance
Food and Drug Administration
Federal Building 8
Room 5807
200 C Street, S.W.
Washington, D.C. 20204

Re: Interpretation of 21 C.F.R. § 179.26(h)

Dear Mr. Lake:

This letter is submitted on behalf of the Golden Grain Company, San Leandro, California, as a follow-up to our conversation of Friday, December 18, 1987. As discussed, we seek Food and Drug Administration (FDA) confirmation that Golden Grain's prior use of irradiated dried mushroom bits to season one of its dried rice and one of its dried noodle products complied with the agency's regulation regarding the use of ionizing radiation for the treatment of food. While Golden Grain has discontinued using the irradiated mushroom bits as of December 7, 1987, we ask that you expeditiously review this request and confirm our view that Golden Grain's use of mushroom bits treated with ionizing radiation was consistent with current regulation. Your decision in this matter will send an important signal to the food industry and consumers regarding the agency's resolve and commitment to support and defend the expanded irradiation rule.

FACTS

As you are aware, Golden Grain manufactures a variety of dry rice and noodle products. These products, frequently used as side dishes or entrees, are almost universally flavored or seasoned with tiny bits of dried meat, poultry, and/or vegetable ingredients. For a period of time during 1987, Golden Grain incorporated as an ingredient in two of these products irradiated dried mushroom bits. These dried bits

accounted for only a very small percentage of the products' composition, ranging from 0.88% - 2.186%. According to our supplier, Cade-Grayson, Inc., of Vista, California, the mushroom bits used in these products had been exposed to ionizing radiation in a dose of not less than .4Mrad to not more than 1.0Mrad.1/

The purpose of incorporating the dried mushroom bits was to flavor or season the product.2/ The ingredient provided very little, if any, nutritional value.

REGULATORY FRAMEWORK

The regulations currently provide that ionizing radiation may be used:

for microbial disinfection of the following dry or dehydrated aromatic vegetable substances: culinary herbs, seeds, spices, teas, vegetable seasonings, and blends of these aromatic vegetable substances.
21 C.F.R. § 179.26(b) (emphasis supplied).

Ionizing radiation may be used on this category of ingredients at up to 3Mrad. Golden Grain's supplier exposed the mushroom bits to considerably less ionizing radiation (.4 - 1.0Mrad) than currently permitted by the regulation.

The preamble to the final regulation indicates that FDA described the substances permissibly subject to radiation treatment as "dry or dehydrated aromatic vegetable substances" so that the class of permissible substances would be "more comprehensive" than that listed in the proposed rule. 51 Fed. Reg. 13376, 13381 (April 18, 1986). The proposed rule would have allowed ionizing radiation treatment of only a specified list of dried spices and dried vegetable seasonings. See 49 Fed. Reg. 5714, 5722 (February 14, 1984). The revised rule was designed to expand upon those limited ingredients, such as

1/ Cade-Grayson for a period of time imported the mushrooms from Taiwan in cartons marked as having been treated with radiation. These products were granted entry into the U.S. by Customs and the FDA. Subsequently, rather than importing irradiated mushrooms, the mushrooms were irradiated in the U.S.

2/ See Attachment A (letter of M. G. Heydanek).

spices, previously permitted to be subjected to ionizing radiation. See former 21 C.F.R. § 179.22.

Interpretation

Because the revised rule was designed to expand upon those food substances which may be subjected to ionizing radiation, Golden Grain believes that dried mushroom bits, used to season dry rice or noodle dishes, properly fall within those "vegetable seasonings" permissibly treated with radiation under the letter and spirit of the revised rule. Further support for this position can be found in an FDA advisory opinion, and other FDA regulatory provisions dealing with seasonings and vegetables.

In an August 6, 1987, letter to Bruce Meyer, Vice President, Radiation Sterilizers, Inc. (Attachment B), addressing the issue of whether dried strawberry seeds may be considered a "dry or dehydrated aromatic vegetable substance" so as to allow radiation treatment for microbial disinfection, Dr. Clyde A. Takeguchi of FDA's Division of Food and Color Additives stated that "[i]n developing its regulation, FDA used the term 'aromatic vegetable substances' to describe substances that are used for their aroma and flavoring properties" (emphasis supplied), distinguishing substances that are used for "texture modification and mouth-feel." This advisory opinion indicates that whether a given substance is an "aromatic vegetable substance" turns on its use in the food product. Golden Grain uses its dried mushroom bits to season and flavor the products in which they are an ingredient. This use comports with the use prescribed in the advisory opinion; therefore, dried mushroom bits should properly be considered a "vegetable substance" under the regulation.

The term "vegetable seasoning" is not currently defined in the FDA regulations. For the purpose of establishing tolerances or limitations for the use of direct and indirect food additives, FDA has established general food categories. "Seasonings" are grouped along with herbs, seeds, spices, blends, extracts, and flavorings. See 21 C.F.R. § 170.3(n)(26). "Fresh vegetables" are grouped together with tomatoes and potatoes at 21 C.F.R. § 170.3(n)(19). Mushrooms

are acknowledged to be vegetables under federal regulations. See 21 C.F.R. § 155.201.3/

Golden Grain believes its use of the dehydrated mushrooms should qualify as "vegetable seasonings" because the mushrooms are dehydrated, therefore differentiating them from "fresh vegetables". Moreover, the mushroom bits are extremely small, and used in very small amounts to season or flavor the rice and noodle dishes -- not as a vegetable or other food ingredient to nutritionally contribute to such products, and not for texture modification or mouth-feel. Thus, based upon prevailing definitions, Golden Grain believes its use falls within the definition of "vegetable seasonings".

A number of FDA standards of identity specifically permit a variety of dried vegetable ingredients to be used and identified as "seasonings". For example, the standard of identity for canned green beans and canned waxed beans, 21 C.F.R. § 155.120, identifies "[p]ieces of green or red peppers or mixtures of both, either of which may be dried, or other vegetables not exceeding in total 15% by weight of the finished product" as permissible optional ingredients. 21 C.F.R. § 155.120(a)(3)(x) (emphasis supplied). Under the labeling provisions of this standard, the small pieces of dried vegetables may be declared as "seasoned with green peppers". 21 C.F.R. § 155.120(a)(4)(b). Under this standard, the declaration "seasoned with ..." in labeling to indicate use of pieces of red or green peppers up to 15% is an appropriate regulatory description. By analogy, bits of dried mushroom in Golden Grain's products that are present up to 2.2% should properly be designated as "vegetable seasonings" and,

3/ 21 C.F.R. Part 155 generally governs "canned vegetables". Similarly, USDA classifies mushrooms as vegetables. See 7 C.F.R. §§ 51.3385-51.3398, 51.3435-51.3449, 52.1481-52.1495. 7 C.F.R. Part 51 generally governs "fresh fruits and vegetables and other products (mushrooms not included among the "other products")", and 7 C.F.R. Part 52 generally governs processed fruits and vegetables, processed products thereof, and certain other processed food products (mushrooms not included among "other processed food products").